

# How WA seeks to stem flow of people from jails to state hospitals

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*Western State Hospital in Lakewood is the state's largest psychiatric hospital. The Legislature approved \$1.2 billion for behavioral health, including \$122 million to increase the number of available beds for mental health treatment. (Amanda Snyder / The Seattle Times, 2022)*

By Esmey Jimenez

Washington state lawmakers wrestled with and ultimately passed a bill recently that is intended to ease a persistent crisis — the state is failing to provide required mental health services for people detained in jail and awaiting trial.

Despite a 2018 federal settlement, officials with the state Department of Social and Health Services have struggled to keep up with the number of defendants who need assistance, leading to steep fines and growing frustration among law enforcement, families, and advocates.

Senate Bill 5440, which awaits the signature of Gov. Jay Inslee, addresses this problem with a number of changes. The bill creates a new position for clinical intervention specialists — mental health professionals who have the ability to prescribe medication. They'd work at local jails to stabilize defendants awaiting trial. The specialists would be contracted or employed through DSHS and coordinate treatment with jail health staff and state hospital workers.

The original version of the bill was more contentious. It was intended to bring the expertise of people at the state psychiatric hospitals to the jails to bring restoration services, a kind of treatment that typically includes medication and education about the legal system in order to make a defendant competent to stand trial.

Advocates from Disability Rights Washington pushed back on that version, stating during public testimony that jails are not therapeutic settings. Supporters of the legislation argued it is a necessary, albeit imperfect, attempt to respond to the crisis.

The compromise legislation continues to focus on treatment in jails, but it also places the responsibility on the court to first determine if a competency evaluation is needed for a defendant. The goal is to reduce the number of people that go into the forensic, or jail-based, mental health system in the first place.

It also prohibits jail and juvenile detention facilities from discontinuing psychiatric medication and requires courts to first consider diversion programs for people with nonfelony charges before sending them to a state hospital for inpatient services. Prosecutors can push back on sending someone to a diversion program if they can establish a "compelling state interest." With less serious nonfelonies, courts can detain people to allow for an evaluation from a designated crisis responder, a mental health professional who can kick-start a separate, involuntary commitment process.

Once signed into law by the governor, the bill would also order the University of Washington to create a pilot program for people with intellectual and developmental disabilities who end up in jail but do not usually benefit from restoration treatment. Data collected from the pilot program would yield information about how many people caught up in the legal system could be better served by other programs or services. Likewise, people with traumatic brain injuries or dementia would be identified and diverted to other programs within DSHS.

One of the lead sponsors of the bill, Sen. Manka Dhingra, D-Redmond, acknowledged that this bill isn't a match for the scope of the problem.

"This is not a solution," she said. "We just have to get a handle on this." She sought to put this bill in context of the broader legislative spending on behavioral health, an enormous \$1.2 billion investment this legislative session.

"This year we had the most robust behavioral health budget that the state has ever done, Dhingra said. "Those are the investments that are going to pay dividends."

That includes \$270 million for increases in the reimbursement rate for behavioral health providers, as well as \$122 million to increase the number of available beds for mental health treatment.

Last year, Washington also launched the 988 crisis line, an alternative to the national suicide hotline. The UW is also expected to open a new behavioral health facility around December that will provide 150 beds, many which will be devoted to people who have been long-term civilly committed.

Still others remain optimistically skeptical of SB 5440's ability to quell the crisis.

"Is this a relief valve? I don't know," said Eric Johnson, executive director of the Washington State Association of Counties, who was originally opposed to the bill, stating that it forced counties to deal with a state problem.

"Maybe combined, all the things together, it could be a slight improvement, but I don't know if it's going to have a dramatic effect," he said.

The legislation comes as the state faces federal court action for failing to provide mental health services for people in jails in a timely manner.

In late May, federal Judge Marsha Pechman is scheduled to preside over evidentiary hearings in a case that set timelines for people in jail to receive services. Plaintiffs in the case, known as the Trueblood, filed a motion earlier this year stating that DSHS is not complying with those timelines.

If found in contempt, the agency faces millions in fines that they've accrued but have not had to pay so far due to the settlement agreement.